

STATE OF INDIANA

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MEMORANDUM

TO: Assessing Officials

CC: Auditors, Treasurers, County Commissioners, County Council Members

FROM: Cheryl A.W. Musgrave, Commissioner *CWM*

DATE: April 1, 2008

SUBJECT: House Enrolled Act (HEA) 1001 and Assessing Officials

1. The purpose of this memorandum is to inform all assessing officials (i.e., county assessors, elected township assessors, trustee-assessors) and other elected officials of the changes made to the law contained in HEA 1001 as it relates to the elimination of elected township assessors in townships with less than fifteen thousand (15,000) real property parcels as of January 1, 2008, the elimination of the assessing function of township trustees, and the referendum process for those elected township assessors in townships with fifteen thousand (15,000) parcels or more as of January 1, 2008.

2. Attached to this memorandum is a series of questions that were presented to the Department of Local Government Finance ("Department") by assessors and other local officials after the signing of HEA 1001 by Governor Daniels on March 19, 2008. The answers provided in response to the questions in the attachment were developed in conjunction with an assembled group of assessing officials and members of the Department that met in Indianapolis on March 26, 2008 to discuss the impact of HEA 1001.

3. New Certification Requirements

a. *County Assessors.* HEA 1001, Section 2 amends Indiana Code section (IC) 3-8-1-23. A **candidate** for county assessor who runs in an **election after January 1, 2012** (i.e., November 2014) must have a Level III assessor-appraiser certification under IC 6-1.1-35.5. This change is effective on July 1, 2008. The requirement that a **candidate** for county assessor who runs in an **election after June 30, 2008** (i.e., November 2010) must have a Level II certification is still law.

b. *Township Assessors and Trustee-Assessors.* HEA 1001, Section 3 amends IC 3-8-1-23.6 (formerly IC 3-8-1-23.5) and is effective as of March 19, 2008. A candidate for the office of elected township assessor who runs in an **election after January 1, 2012** for the office of elected township assessor must have a Level III **before taking office** on January 1, 2015. The provision requiring an elected township assessor who runs in an **election after June 30, 2008** must have a

Level II **before taking office** on January 1, 2011 remains. The certification requirements for a trustee-assessor were removed because the assessing function of trustee-assessors was removed in HEA 1001, Section 709.

c. *Employees of County Assessor Who Perform Real Property Assessing Duties.* HEA 1001, Section 699, which is effective on July 1, 2008, amends IC 36-2-16-8 to require, after June 30, 2009, that an employee of the county assessor who performs real property assessing duties must have a level of certification that the county assessor is required to attain under IC 3-8-1-23. As a result, the employee is to have a Level II for an election after June 30, 2008 (i.e., November 2010) and Level III for an election after January 1, 2012 (i.e., November 2014).

d. *Employees of Township Assessor Who Perform Real Property Assessing Duties.* HEA 1001, Section 712, which is effective July 1, 2008, adds a new section, IC 36-6-5-4, to the Indiana Code. This new section requires that, after June 30, 2009, an employee of a township assessor who performs real property assessing duties must have a level of certification that the township assessor is required to attain under IC 3-8-1-23.6. Thus, the employee is to have a Level II before taking office in an election after June 30, 2008 (i.e., January 1, 2011) and Level III before taking office in an election after January 1, 2012 (i.e., January 1, 2015).

4. Location of County Assessor Office

HEA 1001, Section 692 amends IC 36-2-15-3, effective on July 1, 2008. The law still requires the county assessor to keep the assessor's office in a building provided at the county seat by the county executive. A new provision was added to **allow the county assessor to "establish one (1) or more satellite offices in the county."**

5. County Assessor Duties

a. HEA 1001, Section 693 amends IC 36-2-15-5 and adds as a function to the county assessor the requirement to perform assessing duties in the following townships:

(1) where the township assessor failed to attain a Level II certification before taking office on January 1, 2011, or a Level III before taking office on January 1, 2015; and

(2) where the duties relating to the assessment of tangible property (i.e., real and personal) are not required to be performed by a township assessor elected under IC 36-6-5 [transfer of duties to county assessor in townships with less than 15,000 parcels].

b. HEA 1001, Section 693 also states that if the township assessor elected in the 2010 general election failed to attain their Level II, or in the 2014 election failed to attain a Level III certification "before the date the term of office begins," the assessment duties transfer to the county assessor. The assessment duties could transfer back to the elected township assessor if, at a later election, a person who has the required level of certification is elected.

c. HEA 1001, Section 693 added a new paragraph to IC 36-2-15-5 that requires a referendum to be held in each township where the number of parcels of real property on January 1, 2008, is

at least fifteen thousand (15,000). The referendum is to determine whether to transfer to the county assessor the assessment duties performed by the elected township assessor.

6. Referendum

a. HEA 1001, Section 694 adds a new section, IC 36-2-15-7.4, effective July 1, 2008. The new provision states that assessment duties are transferred to the county assessor only if a majority of the township who vote in the referendum (townships with 15,000 parcels or more as of January 1, 2008) approves the transfer. The question to be submitted to the voters in the referendum is:

“Should the assessing duties of the elected township assessor in the township be transferred to the county assessor?”

b. HEA 1001, Section 695 adds a new section, IC 36-2-15-8, effective on July 1, 2008. The county legislative body is required to certify the referendum question to be voted on to the county election board. Each county clerk must, upon receiving the question, call a meeting of the county election board to make arrangements for the referendum. The referendum is required to be held in the general election in November 2008. The referendum is held under the direction of the county election board. At least ten (10) days before the November 2008 election, the county election board publishes the referendum question in accordance with the legal notice requirements of Indiana law.

c. HEA 1001, Section 696 adds a new section, IC 36-2-15-9, effective on July 1, 2008 to the Indiana Code. This new section requires the county election board to:

(1) certify the referendum question to the circuit court clerk by the county legislative body to be placed on the ballot; and

(2) provide an adequate supply of ballots and voting equipment to the precinct election board of each precinct in the township where the referendum is to be held.

d. HEA 1001, Section 697 adds IC 36-2-15-10 as a new section, effective July 1, 2008. This new section states that all registered voters resident in the township subject to the referendum are entitled to vote in the November 2008 referendum.

e. HEA 1001, Section 698 adds IC 36-2-15-11 as a new section to the Indiana Code, effective July 1, 2008. This new provision requires each precinct election board to count the votes cast in the referendum and certify the totals of the affirmative votes and the negative votes to the county election board of the county. The circuit court clerk of the county is then required to certify the results of the referendum to the county legislative body. The county legislative body then notifies the Department of the result of the referendum. If a majority of the voters who voted in the referendum voted "yes" on the referendum question, the county legislative body notifies the county assessor and the elected township assessor (if there is an election held on November 4, 2008 for the township assessor position, the results of the general election are nullified by an

affirmative vote in the referendum). The elected township assessor's assessment duties prescribed by IC 6-1.1 are transferred to the county assessor on January 1, 2009.

7. Trustee-Assessors

HEA 1001, Section 709 amends IC 36-6-4-3 to eliminate the requirement that the township executive (i.e., the township trustee (IC 36-6-4-2(a)) serve as the township assessor. This change is effective July 1, 2008.

8. Transfer of Duties to County Assessor in Townships with Less than 15,000 Parcels

a. HEA 1001, Section 710 amends IC 36-6-5-1, effective on July 1, 2008, to add a requirement to the township assessor eligibility statute that, to be an elected township assessor, the number of parcels of real property in the township on January 1, 2008 must be at least fifteen thousand (15,000) in addition to the current township population requirements in law and the aforementioned assessor-appraiser certification requirements in law.

b. A new paragraph was added that specifies that after 2008, a township assessor is to be elected "only by the voters of each township in which: (1) the number of parcels of real property on January 1, 2008, is at least fifteen thousand (15,000); and (2) the transfer to the county assessor of the assessment duties ... is disapproved in the referendum" on November 4, 2008.

c. A new paragraph is also added to IC 36-6-5-1, which clearly states that, after June 30, 2008, the county assessor is required to perform the assessment duties prescribed by IC 6-1.1 in a township where the number of parcels of real property on January 1, 2008, is less than fifteen thousand (15,000).

9. Assessing Functions of Township Trustees Repealed

HEA 1001, Section 818 repeals IC 36-6-5-2, effective as of July 1, 2008. IC 36-6-5-2, applies to townships without an elected or appointed and qualified township assessor. It required the township executive to perform all the duties and to possess all the rights and powers of an assessor.

10. Organization of Records by Elected Township Assessor and Trustee-Assessors

a. HEA 1001, Section 829 is a non-Code provision and went into effect upon passage of the law, which was March 19, 2008. This section requires each elected township assessor and township trustee-assessor whose assessment duties transfer to the county assessor, either on July 1, 2008 or January 1, 2009 (in the case of defeat at the referendum), to organize the records of their office relating to assessment in a manner prescribed by the Department and transfer the records to the county assessor as directed by the Department.

b. Additionally, this section requires that before July 1, 2008, the Department "determine a procedure and schedule for the transfer of the records." It also requires a township assessor or trustee-assessor to complete the transfer of records and operations to the county assessor before

the date of transfer of duties, which is either July 1, 2008 or January 1, 2009 (in the case of defeat at the referendum).

c. The assessors must assist each other and coordinate their efforts to: (1) ensure an orderly transfer of all township assessor and township trustee-assessor records to the county assessor; and (2) provide for an uninterrupted and professional transition of the property assessment functions from the township assessor or township trustee-assessor to the county assessor consistent with the directions of the Department.

11. Effect of Transfer of Assessing Duties on Assessment Appeals and Other Acts

a. *Appeals Against Township Assessor Before Transfer.* HEA 1001, Section 830, which is effective on July 1, 2008, states that no impact will occur on any assessment, assessment appeal, or other official action of a township assessor or trustee-assessor made *before* the transfer of duties to the county assessor relating to assessment. Any assessment, assessment appeal, or other official action made by a township assessor or trustee-assessor within the scope of their official duties *before* transfer of the assessment duties to the county assessor are considered to have been made by the county assessor. HEA 1001 does not affect any other pending action against a township assessor or trustee-assessor.

b. *Recusal of County Assessor.* HEA 1001, Section 137, which is effective on July 1, 2008, amends IC 6-1.1-15-1, to state that the “**county assessor is recused from any action the county board [PTABOA] takes with respect to an assessment determination by the county assessor.**”

c. Thus, any assessment made by the elected township assessor or trustee-assessor before July 1, 2008 (or January 1, 2009 if the referendum provisions apply) is considered as having made by the county assessor, effective July 1, 2008. As a result of the new IC 6-1.1-15-1(k), the county assessor is recused from action on that assessment as a member of the PTABOA.

12. Effect on Maximum Property Tax Levy

HEA 1001, Section 831 requires the Department to adjust the maximum permissible ad valorem property tax levy of a county and a township to reflect the transfer of records and operations from the township assessor or trustee-assessor to the county assessor. The adjusted maximum permissible ad valorem tax levies apply to property taxes first due and payable in the calendar year following the calendar year in which the transfer of records and operations was completed. Thus, if the transfer of duties occurs on July 1, 2008 (townships with less than 15,000 parcels), the adjusted maximum levy will apply to property taxes due and payable in 2009. If the transfer of duties occurs on January 1, 2009 (townships with at least 15,000 parcels and defeat in November referendum), the adjusted maximum levy will apply to property taxes due and payable in 2010. This non-Code provision is in effect on July 1, 2008.

13. Elected Township Assessor Entitled to Remain in Office Until End of Term

a. HEA 1001, Section 832 applies to an elected township assessor: (1) who before July 1, 2008 is either elected to or selected to fill a vacancy in the office of elected township assessor; **and** (2) for whom the assessment duties transfer to the county assessor after June 30, 2008, or after December 31, 2008 as the result of a referendum.

b. This non-Code provision clearly states that “an elected township assessor” is entitled to remain in office until the end of their term. However, it does not reference salary payment provisions.

c. In such a case, **the sole duty of the elected township assessor is to assist the county assessor in the transfer of records and operations from the township assessor to the county assessor which must be complete on July 1, 2008.**

d. If the office of township assessor is up for election on November 4, 2008 -- not the referendum, but the office is up at the general election -- the term of office of the incumbent township assessor as of that date ends on December 31, 2008. The Department is unaware of any elected township assessor who is up for election on November 4, 2008; but if such an unusual circumstance exists, this provision would apply. This section is effective on July 1, 2008.

14. Caucus Elected Township Assessor Resigns or Vacates Office before July 1, 2008

HEA 1001, Section 833 is effective as of March 19, 2008. This non-Code provision states that the caucus procedure for filling vacancies does not apply to a vacancy in the office of elected township assessor that occurs between March 19, 2008 and June 30, 2008 in a township with less than fifteen thousand (15,000) parcels on January 1, 2008.

15. Employment Positions Transferred to the County Assessor (less than 15,000 parcels)

a. *Employment Positions.* HEA 1001, Section 834, which is effective as of March 19, 2008, transfers to the county assessor on **July 1, 2008** the “employment positions” as of June 30, 2008, of each elected township assessor in a township with less than fifteen thousand (15,000) parcels, including:

(1) the employment position of the **elected township assessor; and**

(2) the employment positions of **all employees of the elected township assessor** (but *not* employment positions of the trustee-assessor or his/her employees).

b. *Opportunity to Interview.* Before **July 1, 2008**, the county assessor must interview, or give the opportunity to interview to, each individual who:

(1) is an **employee of an elected township assessor** in a township with less than fifteen thousand (15,000) parcels as of March 19, 2008 (not the elected township assessor, only his/her employees); **or**

(2) is an **employee of a trustee-assessor** in the county as of March 19, 2008 (not the trustee-assessor, only his/her employees); **and**

(3) who **applies before June 1, 2008**, for an employment position as of June 30, 2008 that transfers over to the county assessor on July 1, 2008.

c. The Department interprets the aforementioned provisions to mean that the elected township assessor has their "employment position" transfer to the county assessor on July 1, 2008. The salary consequences of the transfer of this "employment position" from one elected official to another will be explored further with the Attorney General's office. The Department is unwilling to declare that the township assessor becomes an employee of the county assessor since the elected township assessor retains elected status and is entitled to remain in office until the end of their term. The Department interprets reference to the transfer of the "employment position" of the elected township assessor to mean that the budget "line item" of the township assessor's "employment position" (i.e., salary) is transferred to the county assessor's budget on July 1, 2008.

d. There are also constitutional concerns if, for example, an elected township assessor is hired as the county assessor's chief deputy sometime between July 1, 2008 and the end of the township assessor's term of office. IC 36-2-16-8 specifically authorizes a county assessor to appoint the number of full-time or part-time deputies and employees authorized by the county fiscal body. However, Article 2, Section 9 of the Indiana Constitution states, "...no person may hold more than one lucrative office at the same time...." Case law defines "lucrative office" for purposes of this constitutional prohibition as "an office to which there is attached compensation for services rendered." *Book v. State Office Bldg Comm'n*, 149 N.E.2d 273 (Ind. 1958).

e. Employees of elected township assessors and employees of trustee-assessors as of March 19, 2008, are not guaranteed employment with the county assessor on July 1, 2008. Reference to "employment positions of all employees of the elected township assessor" transferring to the county assessor on July 1, 2008 means the "line item" of such employment positions in the elected township assessor's budget as of June 30, 2008, and not the physical employee. **Thus, all employees of the elected township assessor and all employees of the trustee-assessor, as of March 19, 2008, who desire an employment position with the county assessor on July 1, 2008, must apply for an employment position with the county assessor before June 1, 2008.**

16. Real and Personal Property Transferred to the County Assessor (less than 15,000 parcels)

HEA 1001, Section 834, which is effective as of March 19, 2008, transfers to the county assessor on **July 1, 2008** the real and personal property of an elected township assessor in a township with less than fifteen thousand (15,000) parcels, and the "real and personal property" of the township trustee-assessors in the county, "used solely to carry out property assessment duties."

17. Obligations on June 30, 2008 Transferred to the County Assessor (less than 15,000 parcels)

HEA 1001, Section 834, which is effective as of March 19, 2008, transfers to the county assessor on **July 1, 2008**, obligations outstanding on June 30, 2008, of an elected township assessor in a township with less than fifteen thousand (15,000) parcels, and the obligations of the township trustee-assessors in the county, "relating to the assessment of tangible property."

18. Funds Transferred to the County Assessor (less than 15,000 parcels)

HEA 1001, Section 834, which is effective as of March 19, 2008, transfers to the county assessor on **July 1, 2008**, funds of elected township assessors in a township with less than fifteen thousand (15,000) parcels, and the funds of township trustee-assessors in the county, "on hand for the purpose of carrying out property assessment duties in the amount determined by the county auditor."

19. Employment Positions Transferred to the County Assessor (Referendum)

a. *Employment Positions.* HEA 1001, Section 834, which is effective as of March 19, 2008, transfers to the county assessor on **January 1, 2009** the "employment positions" as of December 31, 2008, of each elected township assessor in a township where the assessment duties transferred to the county assessor as a result of the November 4, 2008 referendum, including:

- (1) the employment position of the **elected township assessor**; and
- (2) the employment positions of **all employees of the elected township assessor** (but *not* employment positions of the trustee-assessor or employees).

b. *Opportunity to Interview.* Before **December 31, 2008**, the county assessor must interview, or give the opportunity to interview to, each individual who:

- (1) is an **employee of an elected township assessor**, as of March 19, 2008, in a township where the assessment duties transferred to the county assessor as a result of the November 4, 2008 referendum (not the elected township assessor, only employees); and

- (2) who **applies before December 1, 2008**, for an employment position as of December 31, 2008 that transfers over to the county assessor on January 1, 2009

c. The Department interprets the aforementioned provisions to mean that the elected township assessor whose duties were transferred to the county assessor in the November 4, 2008 referendum has their "employment position" transfer to the county assessor on January 1, 2009. The salary consequences of the transfer of this "employment position" from one elected official to another will be explored further with the Attorney General's office. The Department is unwilling to declare that the township assessor becomes an employee of the county assessor since the elected township assessor retains elected status and is entitled to remain in office until the end of their term. The Department interprets reference to the transfer of the "employment position" of the elected township assessor to mean the budget "line item" of the township

assessor's "employment position" (i.e., salary) is transferred to the county assessor's budget on January 1, 2009.

d. There are also constitutional concerns if, for example, an elected township assessor is hired as the county assessor's chief deputy sometime between July 1, 2008 and the end of the township assessor's term of office. IC 36-2-16-8 specifically authorizes a county assessor to appoint the number of full-time or part-time deputies and employees authorized by the county fiscal body. However, Article 2, Section 9 of the Indiana Constitution states, "...no person may hold more than one lucrative office at the same time...." Case law defines "lucrative office" for purposes of this constitutional prohibition as "an office to which there is attached compensation for services rendered." *Book v. State Office Bldg Comm'n*, 149 N.E.2d 273 (Ind. 1958).

e. Employees of elected township assessors, as of March 19, 2008, are not guaranteed employment with the county assessor on January 1, 2009. Reference to "employment positions of all employees of the elected township assessor" transferring to the county assessor on January 1, 2009 means the "line item" of such employment positions in the elected township assessor's budget as of December 31, 2008, and not the physical employee. **Thus, all employees of the elected township assessor, as of March 19, 2008, who desire an employment position with the county assessor on January 1, 2009, must apply for an employment position with the county assessor before December 1, 2008.**

f. Lastly, unlike the July 1, 2008 transfer provisions discussed above, **the January 1, 2009 interview provisions do not apply to employees of trustee-assessors.** Thus, employees of the trustee-assessor who desire an employment position with the county assessor have only one opportunity for an interview. Employees of trustee-assessors, if they want to work for the county assessor, must be an employee of a trustee-assessor as of March 19, 2008; and apply for the employment position before June 1, 2008. This is because the assessing functions of the township trustee are repealed as of July 1, 2008.

20. Real and Personal Property Transferred to the County Assessor (Referendum)

HEA 1001, Section 834, which is effective as of March 19, 2008, transfers to the county assessor on **January 1, 2009** the real and personal property "used solely to carry out property assessment duties" of an elected township assessor whose assessment duties transferred to the county assessor as a result of the November 4, 2008 referendum.

21. Obligations on December 31, 2008 Transferred to County Assessor (Referendum)

HEA 1001, Section 834, which is effective as of March 19, 2008, transfers to the county assessor on **January 1, 2009**, obligations outstanding on December 31, 2008 "relating to the assessment of tangible property" of an elected township assessor whose assessment duties transferred to the county assessor as a result of the November 4, 2008 referendum.

22. Funds Transferred to the County Assessor (Referendum)

HEA 1001, Section 834, which is effective as of March 19, 2008, transfers to the county assessor on **January 1, 2009**, funds of elected township assessors “on hand for the purpose of carrying out property assessment duties in the amount determined by the county auditor” whose assessment duties are transferred to the county assessor as the result of the November 4, 2008 referendum.

23. Transfer of Revenue of a Township Assessor to County Assessor (applies to all)

HEA 1001, Section 834, which is effective as of March 19, 2008, states that a township served on June 30, 2008, by a township assessor whose assessment duties transfer to the county assessor on either July 1, 2008 or January 1, 2009 must transfer to the county assessor “all revenue received after the date of the transfer [July 1, 2008 or January 1, 2009] that is received by the township for the purpose of carrying out property assessment duties in the amount determined by the county auditor.”

24. County Auditor to Certify Townships with at least 15,000 Parcels of Real Property

HEA 1001, Section 835, effective on March 19, 2008, requires, before April 15, 2008, that each county auditor certify to the county assessor, the county executive (as defined in IC 36-1-2-5), the county fiscal body (as defined in IC 36-1-2-6), and the county election board the name of each township in the county where the number of parcels of real property on January 1, 2008, is at least fifteen thousand (15,000).

25. Compensation of Township Trustee-Assessors

a. HEA 1001, Section 713 amends IC 36-6-6-10, effective on July 1, 2008, to change the township compensation law. However, **this section of the law does not apply to the appropriation of money to pay a deputy or an employee of a township assessor with assessment duties or to an elected township assessor.** This section was amended in HEA 1001 to delete reference to an assisting technical adviser.

b. HEA 1001, Section 713 repealed IC 36-6-6-10(e), which pertained to trustee-assessors and their salary for assessing duties. This provision, before its repeal, allowed the township board to appropriate funds to supplement the salaries of elected or appointed officers to compensate them for performing assessing duties. As a result of the repeal of this particular paragraph, it appears the township board no longer has the authority to compensate the trustee for performing assessing duties, effective July 1, 2008. **Nevertheless, the Department will seek an advisory opinion from the Office of Attorney General seeking clarification of the salary requirements for trustees who currently conduct assessing duties and elected township assessors after June 30, 2008.**

c. The remaining provisions of IC 36-6-6-10 primarily stay in place, including the sections authorizing the township board to reduce the salary of an elected or appointed official; however, the official is still entitled to a salary that is not less than the salary fixed for the first year of the

term of office that immediately preceded the current term of office. IC 36-6-6-10(c). Additionally, the township board still may not alter the salaries of elected or appointed officers during the fiscal year for which they are fixed, but it may add or eliminate any other position and change the salary of any other employee, if the necessary funds and appropriations are available. IC 36-6-6-10(d).

26. Township Assessor Compensation

a. HEA 1001, Section 717 amends IC 36-6-8-5, which pertains to the compensation of the assessor. The amendment eliminated reference to the county land valuation commission, which was repealed in HEA 1001, Section 802. IC 36-6-8-5 still states that, when performing the real property reassessment duties prescribed by IC 6-1.1-4, a township assessor may receive per diem compensation, in addition to salary, at a rate fixed by the county fiscal body, for each day that the assessor is engaged in reassessment activities. The next reassessment is scheduled to begin in 2009 effective 2011 pay 2012.

b. IC 36-6-8-6 was not amended or addressed by HEA 1001. This section of the Indiana Code addresses the annual "bonus" to a township assessor who becomes a certified Level II or Level III assessor-appraiser. It entitles the township assessor to receive annually one thousand dollars (\$1,000) after the assessor's certification under IC 6-1.1-35.5, "which is in addition to and not part of the annual compensation of the township assessor." An employee of a township assessor who becomes a certified Level II or III is entitled to receive annually five hundred dollars (\$500) after the employee's certification under IC 6-1.1-35.5, which is in addition to and not part of the annual compensation of the employee. The law requires that a township assessor or employee who becomes entitled to receive the aforementioned "bonus" is entitled to receive the additional amount "for as long as the person serves in that position and maintains the level two or level three certification." IC 36-6-8-6(d).

c. IC 36-6-8-10 was also not addressed or changed by HEA 1001. This section of the Indiana Code still requires the following:

(1) the county fiscal body to fix and appropriate money to pay the aforementioned reassessment per diem, and the salaries and per diems of the county's township assessors and any deputies or other employees that assist the elected township assessor. Thus, the county fiscal body has authority to fix and appropriate the salaries of the township assessors, their deputies, and their employees. However, HEA 1001, Section 834 requires the transfer of all funds of the elected township assessor and trustee-assessor on hand for carrying out property assessment duties to be transferred to the county assessor as of July 1, 2008 (January 1, 2009 if referendum provisions applicable).

(2) each township assessor to file a required budget estimate required by IC 36-2-5-5 [itemized estimate of money required by county officer and township assessor] or IC 36-3-6-4 [Marion County]. The budget estimate must include all estimated expenses of the office.

(3) if the township trustee is performing the duties of assessor, the county fiscal body must appropriate money for the assessing purposes and other expenses of acting as assessor.

However, it may not provide a salary that is below the amount fixed for that salary for the year 1984.

d. IC 36-6-8-11 was not addressed or changed by HEA 1001. This section of the Indiana Code, still requires deputies and other employees of a township assessor to file their claims for compensation upon verification of the township assessor. Claims for employment that is not on an annual basis must show the actual number of days employed. **Deputies and other employees of a township assessor must be paid out of the county treasury, on the warrant of the county auditor.** This section also reads, "Employees of the township assessor are entitled to no compensation other than that provided by this chapter [IC 36-6-8]."

27. Compensation of Township and County Assessors

a. IC 36-2-5-3, which was not addressed or changed by HEA 1001, requires the county fiscal body to pay a county assessor or elected township assessor who has a Level II or Level III assessor-appraiser certification one thousand dollars (\$1,000) annually, which is in addition to and not part of the annual compensation of the assessor. Additionally, the county fiscal body must pay a county or township deputy assessor with a Level II or Level III certification five hundred dollars (\$500) annually, which is in addition to and not part of the annual compensation of the county or township deputy assessor.

b. HEA 1001, Section 687, amended IC 36-2-5-5, effective as of July 1, 2008, to recognize the elimination of the duties of those elected township assessors on July 1, 2008. The statute still requires, before the Thursday after the first Monday in August of each year, that each county officer and township assessor (if any) "prepare an itemized estimate of the amount of money required for the officer's or assessor's office for the next calendar year." The budget estimate is to include:

- (1) the compensation of the officer;
- (2) the expense of employing deputies;
- (3) the expense of office supplies, itemized by the quantity and probable cost of each kind of supplies;
- (4) the expense of litigation for the office; and
- (5) other expenses of the office, specifically itemized; that are payable out of the county treasury.

c. IC 36-2-5-13, which was not changed or addressed by HEA 1001, states that "the compensation of an elected county officer may *not* be changed in the year for which it is fixed." However, in the year where a newly elected county officer takes office, the county fiscal body may at any time change the compensation for holding the county office for that year if:

(1) the county officer requests the compensation change or, in the case of the county executive body, a majority of the county executive body requests the change; and

(2) the county fiscal body votes to approve the change.

d. IC 36-2-5-13, however, the compensation of “other county officers, deputies, and employees or the number of each” may be changed at any time on:

(1) the application of the county fiscal body or the affected officer, department, commission, or agency; and

(2) a majority vote of the county fiscal body.

28. Unemployment Benefits and Assistance in Job Placement

a. IC 22-4-8-2(i)(2), as amended by HEA 1137-2008, states that service performed after December 31, 1977, as an elected official is excluded from the definition of “employment” for purposes of the unemployment compensation system.

b. The Department of Workforce Development (DWD) has been notified by the Department of the need to assist the employees of elected township assessors and township trustee-assessors who may be affected by this transition over the next three months. Fortunately, DWD offers many options to assist such workers. The Department and DWD encourage each affected person to visit a county WorkOne site where DWD has many excellent personnel able to assist those in need with resumé writing, interviewing skills, and other tips in earning a new job. DWD WorkOne can be reached at 1-800-891-6499 between 8:00 am to 5:00 pm Monday through Friday; or by email: workone@dwd.in.gov; or by visiting one of DWD’s WorkOne sites in counties throughout Indiana. DWD’s WorkOne website is: <http://www.in.gov/dwd/>.

29. In light of the aforementioned compensation provisions, the Department will seek an advisory opinion from the Office of the Indiana Attorney General concerning the impact of HEA 1001 on the salary and other benefits of township trustees who will no longer conduct assessment duties as of July 1, 2008, elected township assessors whose assessing duties transfer to the county assessor on July 1, 2008 or January 1, 2009, and their employees.

30. If after you review this memorandum and the attachment you have questions, please contact your county attorney. If you or your county attorney have any remaining questions after reading this memorandum, its attachment, and the applicable law, please feel free to contact the Assessment Division Director, J. Barry Wood at (317) 232-3773 or bwood@dlgf.in.gov; or the General Counsel, Timothy J. Rushenberg at (317) 233-6770 or trushenberg@dlgf.in.gov.

Attachment:

Transition Attachment Memorandum, April 1, 2008 (8 pages)